

(c) In case of flight cancellations or flight delays, refunds shall be paid immediately upon presentation of an unused flight coupon or upon demand of the charterer or his representative (or in case of the engagement by one charterer of less than the capacity of an aircraft, upon demand of any one charterer or his representative) to the air carrier or its agent.

(d) The requirements in paragraphs (a), (b), and (c) of this section for immediate refunds or alternative transportation shall not apply to the extent that there is an unavoidable delay due solely to weather.

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1127, 44 FR 33055, June 8, 1979]

§208.33a Substitution or subcontracting.

Supplemental air carriers may subcontract the performance of services which they have contracted to perform only to air carriers authorized by the Board to perform such services.

§§ 208.34—208.35 [Reserved]

§208.36 Substitute transportation in emergencies.

(a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his own or on a ferry flight (as defined in §241.03 of this subchapter) under the following circumstances:

(1) [Reserved]

(2) The transportation is for return passage only;

(3) When the passenger is required to return at a different time than his own charter flight due to emergency circumstances beyond the passenger's control; and

(4) The charter group with which the passenger is to travel expresses no objection to his participation in the charter flight.

For the purposes of this paragraph, "emergency circumstances beyond the passenger's control" shall include illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delays

in ground transportation or connecting air transportation.

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1222, 46 FR 28379, May 26, 1981]

§208.37 Exemption.

Charter air carriers are hereby exempted from section 401(n)(4) of the Act.

[ER-1142, 44 FR 50825, Aug. 30, 1979]

§208.38 Suspension of exemption authority.

The Board reserves the power to suspend the exemption authority of any charter air carrier, without hearing, if it finds that such action is necessary in order to protect the rights of the traveling public.

[ER-1142, 44 FR 50825, Aug. 30, 1979]

PROTECTION OF CUSTOMERS' DEPOSITS

§208.40 Protection of customers' deposits.

(a) Except as provided in paragraph (c) of this section, no supplemental air carrier shall perform any air transportation services (other than a cargo charter trip) originating in the United States or any overseas military personnel charter trips, as defined in part 372 of this chapter, nor shall such air carrier accept any advance payment in connection with any such charter trip, unless there is on file with the Board a copy of a currently effective agreement made between said carrier and a designated bank, by the terms of which all sums payable in advance to the carrier by charterers, in connection with any such charter trip to be performed by said carrier, shall be deposited with and maintained by the bank as escrow holder, the agreement to be subject to the following conditions:

(1) The charterer (or its agent) shall pay the carrier either by check or money order made payable to the depository bank. Such check or money order and any cash received by the carrier from a charterer (or his agent) shall be deposited in, or mailed to, the bank no later than the close of the business day following the receipt of the check or money order or the cash, along with a statement showing the name and address of the charterer (or